

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 728 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
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KAPADIA GOPALBHAI GANGARAM

Versus

BABUBHAI RUPABHAI MISTRI

Appearance:

MR BR SHAH for Petitioners

MR AMIT J SHAH for Respondent No. 1

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 22/03/2000

ORAL JUDGEMENT

- #. The only issue involved in this Revision Application
is regarding the question of fixation of standard rent.
- #. The opponent-plaintiff herein had filed Regular Civil
Suit No. 286 of 1983 against the petitioners-defendants

in the court of the learned Civil Judge (JD) at Nadiad for recovering the possession of the suit premises on the ground of arrears of rent.

#. The case of the plaintiff is that he is the owner of the suit premises situated in Nadiad town and that the defendants are the tenants of the suit premises at a monthly rent of Rs. 90/-. That they have not paid any rent from 2.2.82 and accordingly they were in arrears of rent. The plaintiff therefore, gave a notice under section 12(2) of the Bombay Rent Act demanding arrears of rent. However, the registered notice came back with an endorsement "refused". Therefore, the suit mentioned above was filed for getting a decree for possession on the ground of arrears of rent as well as for a decree of arrears of rent.

#. The defendants appeared in the suit and filed their written statement at exh.13. They contended that the rent of the suit premises is Rs. 40/- p.m. and that the standard rent should be fixed at Rs.40/- p.m. According to them they remitted the rent by MO on 13.8.82 but the plaintiff refused the said MO.

#. The Trial Court framed various issues at exh.14 and the Trial Court, after recording the evidence of the parties and hearing the arguments of both the sides dismissed the suit of the plaintiff for possession.

#. Against the aforesaid decree of the Trial Court present respondent-plaintiff filed Regular Civil Appeal No. 209 of 1984 in the Court of the learned District Judge, Kheda at Nadiad. Present petitioners defendants filed cross objections so far as the finding of the standard rent which is fixed at Rs. 90/- p.m. Said cross objections were filed on the ground that the standard rent should be fixed at Rs. 40/- and not at Rs. 90/- p.m. The learned Extra Assistant Judge by his judgment and order dated 4.1.86 partly allowed the said appeal in so far as arrears of rent was concerned.

#. The Appellate Court directed the defendants to pay a sum of Rs. 1170/- as arrears of rent at the rate of Rs.90/- p.m. and also gave further direction to pay arrears of rent for the subsequent period from 3.3.83 to 3.1.86 on or before 31.3.86.

#. Being aggrieved by the aforesaid order of the Appellate Court, the defendants-tenants filed the present Revision Application before this Court.

#. The Appellate Court confirmed the decree of the Trial Court in so far as the dismissal of the suit for possession is concerned. However, the Appellate Court partly allowed the appeal by which the defendants-tenants were asked to pay Rs. 1170/- as and by way of arrears for the period for 13 months from 3.2.82 to 2.3.83 at the rate of 90 per month. The Appellate Court directed the defendants to pay arrears of rent for the subsequent period from 3.3.83 to 3.1.86. Against the aforesaid order of the Appellate Court the landlord had filed Civil Revision Application No.1321 of 1986. Said Revision Application was summarily dismissed by this court on 6.3.87. The defendants-tenants have also filed Revision Application i.e. the present one so far as fixation of Rs.90/- as standard rent is concerned. The only point which is required to be considered in this Revision Application is whether fixation of Rs.90/- as standard rent by the Courts below is proper or not. This Court while admitting this Revision Application had granted interim relief in CA No. 3200 of 1987 by which the petitioners were directed to deposit rent at the rate of Rs.60/- p.m.

##. The Appellate Court has found that the tenants have not led any evidence to show that they have ever paid Rs. 40/- as rent to the plaintiff. On appreciation of evidence it was found that the contractual rent was Rs. 90/- per month which was ultimately found to be the standard rent. The tenant has not led any evidence to show as to how Rs.90/- is excessive or that it is not the standard rent of the suit premises. The finding given by the courts below about the standard rent is the finding of fact. So far as the suit for decree for possession is concerned, the same was dismissed and so far as the standard rent of Rs.90/- is concerned it cannot be said that the finding of courts below fixing the said amount as standard rent is in any way illegal or perverse. I do not see any infirmity in the order of the courts below in fixing the standard rent of Rs. 90/- per month. There is therefore, no substance in this Revision Application. The Revision Application is dismissed. Rule is discharged. Interim relief granted earlier stands vacated. No order as to costs.

(P.B.Majmudar)

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